

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

WENDY CLARK

Plaintiff,

vs.

KELSO HOUSING AUTHORITY,

Defendant.

No. C21-5861 BHS

TEMPORARY RESTRAINING
ORDER

THIS MATTER came before the Court on Plaintiff's Motion for a Temporary Restraining Order. Plaintiff seeks to enjoin the Kelso Housing Authority from terminating her tenancy on November 30, 2021 and initiating unlawful detainer proceedings to remove her from her dwelling. Plaintiff alleges that Defendant has refused to reasonably accommodate her in violation of anti-discrimination laws including the federal Fair Housing Act and the Washington Law Against Discrimination. Plaintiff alleges that, if accommodated, the Housing Authority would have to restore her tenancy and allow her to continue living at her dwelling. Plaintiffs provided adequate notice of the instant motion to the Defendant. The Court has considered the pleadings, briefs and submissions including:

- 1 1. Plaintiffs’ Motion for Temporary Restraining Order the Declaration of Wendy Clark, and the
- 2 Declaration of Scott Crain, and,
- 3 2. Defendant’s Responsive brief and all supportive declarations and accompanying
- 4 exhibits, if any.

5 This Court is authorized to issue temporary restraining orders by Fed. R. Civ. P. 65(b).
 6 The standard is identical to that for a preliminary injunction. *Lockheed Missile & Space Co., Inc.*
 7 *v. Hughes Aircraft Co.*, 887 F. Supp. 1320, 1323 (N.D. Cal. 1995). The Court must consider (1)
 8 whether plaintiffs are likely to succeed on the merits; (2) whether they are likely to suffer
 9 irreparable harm in the absence of the preliminary relief; (3) if the balance of hardships tips in
 10 their favor; and (4) whether the injunction is in the public interest. *Winter v. Natural Res. Def.*
 11 *Council, Inc.*, 555 U.S. 7; 129 S.Ct. 365, 375 (2008).

12 The Ninth Circuit’s “serious question” test survives *Winter*, but a showing of irreparable
 13 harm is necessary. *Winter* 129 S.Ct. at 375 (“plaintiffs seeking preliminary relief [must]
 14 demonstrate that irreparable injury is *likely* in the absence of an injunction.”). The Ninth Circuit
 15 held that its “serious questions” approach is consistent with *Winter* and this Court should still
 16 apply that test consistent with *Winter*. *Alliance for Wild Rockies v. Cottrell*, 635 F.3d 1127, (9th
 17 Cir. 2011). The Court may grant the injunctive relief if there are serious questions going to the
 18 merits of the case and a balance of hardships that tips sharply towards the plaintiff, “so long as
 19 the plaintiff also shows that there is a likelihood of irreparable injury and that the injunction is in
 20 the public interest.” *Id.*

21 \

22 \

23 \

1 Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiff has demonstrated
2 the following:

3 1. Plaintiff is likely to succeed on the merits of her complaint that the Housing Authority
4 failed to reasonably accommodate her and, therefore, the termination of her tenancy violates the
5 Fair Housing Act and the Washington Law Against Discrimination.

6 2. Plaintiff will suffer irreparable harm if the Defendant is not enjoined because she cannot
7 afford other housing and will become homeless if evicted. Additionally, Plaintiff's tenant history
8 is likely to be irreparably harmed by the mere filing of an eviction, even if she were to ultimately
9 prevail in that action.

10 3. The balance of harms tips sharply in favor of granting the temporary restraining
11 order because when faced with a conflict between financial concerns and preventable human
12 suffering, the balance of hardship tips in the favor of preventing human suffering. The balance of
13 harms tips sharply in favor of entering the injunction because the harm suffered by Plaintiff.

14 4. Enjoining the Housing Authority is in the public interest because the public has an
15 interest in the eradication of housing discrimination and in not increasing preventable
16 homelessness.

17 5. Plaintiff is indigent. No bond shall be required pursuant to Fed. R. Civ. P. 65(c).
18 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff's
19 Motion for a Temporary Restraining Order is GRANTED. The Court orders that the Defendant
20 is enjoined from terminating Wendy Clark's tenancy for the pendency of this Order and until
21 such time as the Court vacates this Order.

22 This Temporary Restraining Order shall be binding as provided in Fed. R. Civ. P. 65(d)
23
24

1 and shall remain in effect until Plaintiff's Motion for Preliminary Injunction can be heard and
2 decided or until further order of the Court.

3 A hearing on Plaintiffs' Motion for Preliminary Injunction is set for December 13, 2021
4 at 9:00 a.m., in the Honorable Benjamin H. Settle's Courtroom, United States Courthouse,
5 Tacoma, Washington.

6 Dated this 29th day of November, 2021

7
8 

9 BENJAMIN H. SETTLE
10 United States District Judge

11
12
13 Presented by:

14 NORTHWEST JUSTICE PROJECT

15
16 s/ Scott Crain
17 Scott Crain WSBA #37224
18 Attorneys for Plaintiffs
19
20
21
22
23
24